



LEGAL CENTER FOR

**FOSTER CARE & EDUCATION**

## **Fostering Connections Act: Education Provisions**

CWLA Community Forum on Implementation of the  
Fostering Connections Act  
September 1, 2009

Kristin Kelly  
ABA Center on Children and the Law

---

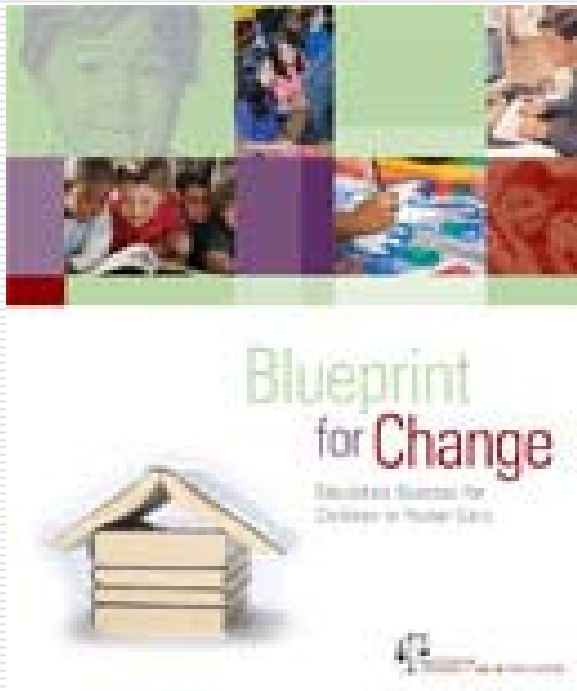
# Legal Center FCE

---

- Collaboration between ABA and Casey Family Programs, in conjunction with the Juvenile Law Center and Education Law Center
  - A national technical assistance resource and information clearinghouse on legal and policy matters affecting the education of children and youth in out-of-home care
  - Website: **[www.abanet.org/child/education](http://www.abanet.org/child/education)**
    - Listserv, Conference Calls, Publications, Searchable Database
-

# Blueprint for Change: Education Success for Children in Foster Care

---



- 8 **Goals** for Youth
  - **Benchmarks** for each goal indicating progress toward achieving education success
  - National, State, and Local **Examples**
-

# Goals for Youth

---

- Goal 1**: Remain in the Same School
  - Goal 2**: Seamless Transitions Between Schools
  - Goal 3**: Young Children Are Ready to Learn
  - Goal 4**: Equal Access to the School Experience
  - Goal 5**: School Dropout, Truancy, and Disciplinary Actions Addressed
  - Goal 6**: Involving and Empowering Youth
  - Goal 7**: Supportive Adults as Advocates and Decisionmakers
  - Goal 8**: Obtaining Postsecondary Education
-

# Fostering Connections to Success Act (October 2008)

---

- ❑ Amends Title IV (Parts B and E) of the Social Security Act
  - ❑ Broad-reaching amendments to child welfare law
  - ❑ Important provisions promoting education stability and enrollment for youth in care
  - ❑ Changes child welfare law, but cannot be realized without collaboration from education system
-

# Appropriateness and Proximity

---

- The child's case plan must include "assurances that the placement of a child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement."



# Proximity and Appropriateness Issues

---

## □ Proximity

- How is proximity defined?
- Necessary recruitment efforts
- Useful collaborations between schools and child welfare

## □ Appropriateness

- Who makes the determination?
  - What criterion do they use?
  - What input do they need?
-

# Appropriateness and Proximity - Child Welfare Considerations

---

- Prioritize child's educational progress and needs (note: impact on permanency).
  - Ensure appropriateness/proximity of school are considered and documented.
  - Promote creative solutions to identifying placements (work with education).
-

# School Stability

---

- The child's case plan must include
    - "(I) an assurance that the state [or local child welfare agency] has coordinated with appropriate local education agencies ... to ensure that the child remains enrolled in the school in which the child was enrolled prior to placement"
  - Unless moving is in the child's best interest – in which case – go to part II.
-

# School Stability Determination Issues

---

- ❑ How is best interest determined/what are factors to address? (see next two slides for sample questions to consider when making school selection decisions)
  - ❑ Who ultimately decides best interest?
  - ❑ What is the role of the parents (or other person with education decision-making authority) in making these decisions?
  - ❑ How will disputes be resolved?
  - ❑ How will child welfare and education collaborate?
-

# Key Questions to Consider When Making a Best Interest Determination

---

- ❑ How long is the child's current placement expected to last?
  - ❑ What is the child's permanency plan?
  - ❑ How many schools has the child attended over the past few years? How many schools has the child attended this year? How have the school transfers affected the child emotionally, academically and physically?
  - ❑ How strong is the child academically?
  - ❑ To what extent are the programs and activities at the potential new school comparable to or better than those at the current school?
  - ❑ Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?
  - ❑ Which school does the student prefer?
-

# Key Questions to Consider When Making a BI determination cont....

---

- How deep are the child's ties to his or her current school?
  - Would the timing of the school transfer coincide with a logical juncture such as after testing, after an event that is significant to the child, or at the end of the school year?
  - How would changing schools affect the student's ability to earn full credits, participate in sports or other extra-curricular activities, proceed to the next grade, or graduate on time?
  - How would the length of the commute to the school of origin impact the child?
  - How anxious is the child about having been removed from the home and/or any upcoming moves?
  - What school do the child's siblings attend?
  - Are there any safety issues to consider?
-

# Enrolling in a New School

---

- If remaining in the same school is not in the best interest of the child, the child's case plan must include
    - "(II) ... assurances by the State agency and the local education agencies to provide immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school." 42 U.S.C.A. 675(1)(G)(ii).
-

# Enrollment In New School Issues

---

- How are immediate and appropriate defined?
- Requires collaboration between school and child welfare agency.
- How to ensure records follow student?



# School Stability Determination: Child Welfare Considerations

---

- ❑ Consider school placement stability issue at initial placement and any time during the life of a case when a living placement change is possible or happening.
  - ❑ Include all perspectives (school representatives, parents, youth, attorneys, CASAs, foster parents) in discussions around best interest determinations
  - ❑ Develop policy/protocol for making BI determinations; this may need to involve the court to help resolve disputes among agency/parents/ and other advocates.
  - ❑ Collaborate with school and others to identify ways for youth to remain in same school even if living placement change is outside district (eliminate residency restrictions, transportation barriers, etc.)
-

# Enrollment In New School: Child Welfare Considerations

---

- When school moves are necessary, prevent delays in re-enrollment.
    - Coordinate with the school to create a clear process with clearly identified responsibilities.
    - Identify who will be enrolling the student, and in what timeframe.
    - Work with schools to expedite obtaining necessary paperwork (encourage schools to enroll before paperwork is obtained).
  - Bring to courts attention if issues arise related to enrollment, access to records or record transfers, including partial credit or graduation requirement issues.
    - Court may order school representative to appear in court to explain delays in enrollment or record transfers
  - Obtain parental consent to obtain education records for the child, or obtain a court order to secure records and maintain in case file (FERPA).
-

# Transportation

---

- The term foster care maintenance payments includes “reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.”



# Transportation Issues

---

- Permissible use (Admin or Maintenance).
- Applies only to IV-E eligible children.
- Requires state to fund match for IV-E eligible children; and all transportation for non IV-E eligible children.
- Unclear how reimbursement can be calculated.

Remember: Some children may already be receiving transportation from other sources (IDEA, McKinney-Vento, etc.)

---

# Transportation: Child Welfare Considerations

---

- ❑ Seek creative solutions to transportation needs.
  - ❑ Work with school and other agencies to develop a comprehensive program to ensure transportation.
  - ❑ Consider using state funds to provide transportation (Florida, Delaware).
  - ❑ Consider other state sources for state match rate.
-

# Attendance

---

- State plan attendance requirement: states must include in their state plan, for all IV-E eligible children (including adoption assistance and guardianship assistance), “assurances that each child who has attained the minimum age for compulsory school attendance under state law...is a full-time elementary or secondary school student or has completed secondary school...” 42 U.S.C.A. 671.
  - Elementary or secondary school student includes:
    - A child enrolled or in the process of enrolling in school
    - Home schooling, as permitted by state law
    - Independent study program
    - Incapable of attending due to medical condition that precludes participation
-

# Attendance Issues

---



- Enrollment- scope includes on-going attendance?
  - How child welfare agencies are going to track?
  - How child welfare agencies are going to address for subsidized guardianship and adoption cases?
  - Ensure exceptions for home school, independent study, or medical condition are not viewed too broadly (Note: Must still comply with compulsory school laws, state enrollment laws, and relevant federal laws such as IDEA, ADA.)
-

# Attendance: Child Welfare Considerations

---

- Work with the school and other state representatives to develop a cross-system method to ensure enrollment and attendance.
  - Document enrollment and attendance.
  - Identify issues or barriers to attendance and work to eliminate them (Notify the court when necessary).
  - Develop policies for subsidized guardianship and adoption cases.
-

# Child Welfare Agency: CHECKLIST

---



- Has the state child welfare agency provided clear direction to local child welfare agencies that the education of children in their care is part of their responsibility?
  - Has the state child welfare agency provided local child welfare agencies with clear guidance on the specific requirements of *Fostering Connections*?
  - Has the state child welfare agency provided local child welfare agencies with guidance on implementing these federal provisions?
-

# Child Welfare Agency: CHECKLIST

---



- Do the state child welfare agency and state education agency need to meet to discuss implementation of *Fostering Connections*? Will a joint discussion about a memorandum of understanding, interagency agreement, or joint directive be helpful? Do state or local child welfare agencies need to change case planning procedures and case plan forms to incorporate all of the case plan requirements from the education provisions of *Fostering Connections*?
-



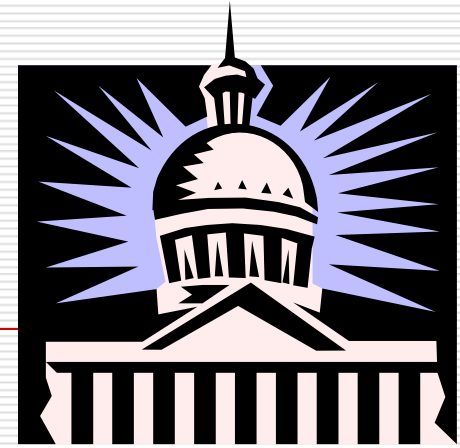
# Child Welfare Agency: CHECKLIST

---

- Is there a system at the state and local levels that collects and tracks education data on each child at time of placement in foster care and periodically thereafter?
  - Has the state determined how federal Title IV-E dollars (either administrative or maintenance) can be used and the protocol to be followed to support transportation to a child's home school?
-

# State Implementation

---



- ❑ Many states will need to pursue legislation or other policy changes to be in compliance with Fostering Connections.
  - ❑ Provides an opportunity to incorporate some of the known strengths of McKinney-Vento into child welfare/education state policy; such as:
    - Requirement for education agency to coordinate and parallel requirements (automatic enrollment without documentation, etc.).
    - Creation of a liaison or key point of contact in both child welfare and education agencies.
    - Consider state funding streams to support school transportation for children in foster care.
    - Creation of protocols for best interest determinations as well as process for dispute resolution.
-

# Education Provisions for Older Youth

---



- ❑ 90 Day Transition Plan
  - ❑ Education Training Vouchers and Independent Living Services
  - ❑ State Option to Extend Care Past 18
-

# Transition Plan

---

- Requires that transition plan be developed for youth 90 days prior to youth's exit from care. 42 U.S.C. 675(H).
  - Must include plan for education.

NOTE: a preexisting IV-E requirement is that case plans include an independent living plan "where appropriate for youth ages 16 and older." 42 U.S.C. 675 (1)(D)

---

# Transition Planning: Child Welfare Considerations

---

- ❑ Begin developing transition plan early; independent living planning should begin for all youth by 16, if not earlier.
  - ❑ Ensure plans are created within designated timeframes (both ILP and TP).
  - ❑ Involve school representatives and others in creation of plans; coordinate with any applicable education plans (IEP, etc.)
  - ❑ Involve youth at all stages in plan; ensure they are aware of rights and services.
-

# Education Provisions for Older Youth

---

- Extends eligibility for Independent Living Services and Education Training Vouchers (ETVs) to youth who enter kinship guardianship or were adopted at age 16 or older. 42 U.S.C. 677
  - Gives states option to keep youth in care until age 21 as long as youth is in educational program, employed, or meets other requirements. 42 U.S.C. 675(8)(A)
    - Improved Outcomes: Illinois
-

# Older Youth Provisions: Child Welfare Considerations

---

- Ensure youth know about IL services and ETVs and can access supports.
  - Consider benefits (education and otherwise) of extending care post-18.
  - Coordinate with other agencies and programs to provide services (housing, mental health, vocational, post-secondary, etc.)
  - When appropriate, petition for youth to remain in care to continue support while pursuing their education.
-

# Legal Center for Foster Care and Education Resources

---

- [www.abanet.org/child/education/publications](http://www.abanet.org/child/education/publications)
  - Data and Information Sharing (Manual and Tools)
  - Special Education Decisionmaking Series (includes Attorney Factsheet)
  - Monthly Questions & Answer Factsheets about critical issues
  - Fostering Connections Implementation Materials
-



# Contact Information

---

**ABA Center on Children and the Law  
Legal Center for Foster Care and  
Education**

**[www.abanet.org/child/education](http://www.abanet.org/child/education)**

Kristin Kelly  
Staff Attorney  
[kellyk@staff.abanet.org](mailto:kellyk@staff.abanet.org)  
(202) 662-1733

---